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DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-846]

Refillable Stainless Steel Kegs from the Federal Republic of Germany: Initiation and Preliminary Results of Changed Circumstances Review and Intent to Revoke Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is initiating a changed circumstances review (CCR) of the antidumping duty (AD) order on refillable stainless steel kegs (kegs) from the Federal Republic of Germany (Germany) based upon a request from American Keg Company (the petitioner), as well as issuing preliminary results in that CCR. We preliminarily determine that the AD order on kegs from Germany should be revoked, in whole, with respect to products subject to the order entered, or withdrawn from warehouse, for consumption on or after December 13, 2019. Interested parties are invited to comment on these preliminary results.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Allison Hollander, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482-2805.

SUPPLEMENTARY INFORMATION:

Background

On December 16, 2019, Commerce published the *AD Order*.¹ On January 30, 2020, the petitioner requested that Commerce conduct an expedited CCR for this *AD Order*, pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216 (b). The petitioner expressed a lack of interest in the continuation of this *AD Order* and requested the revocation of the *AD Order*. In its request, the petitioner addressed the conditions under which Commerce may revoke an order in whole or in part pursuant to 19 CFR 351.222(g). On March 12, 2020, Commerce extended the deadline for initiation to April 29, 2020, and issued supplemental questions to the petitioner.² On March 19, 2020, the petitioner responded to Commerce’s supplemental questions.³

Scope of the *AD Order*

The merchandise covered by the order are kegs, vessels, or containers with bodies that are approximately cylindrical in shape, made from stainless steel (*i.e.*, steel containing at least 10.5 percent chromium by weight and less than 1.2 percent carbon by weight, with or without other elements), and that are compatible with a “D Sankey” extractor (refillable stainless steel kegs) with a nominal liquid volume capacity of 10 liters or more, regardless of the type of finish, gauge, thickness, or grade of stainless steel, and whether or not covered by or encased in other materials. Refillable stainless steel kegs may be imported assembled or unassembled, with or without all components (including spears, couplers or taps, necks, collars, and valves), and be filled or unfilled.

¹ See *Refillable Stainless Steel Kegs from the Federal Republic of Germany and the People’s Republic of China: Antidumping Duty Orders*, 84 FR 68405 (December 16, 2019) (*AD Order*).

² See Commerce’s Letter, “Request for a Changed Circumstances Review of the Antidumping Duty Order on Refillable Stainless Steel Kegs from the Federal Republic of Germany: Extension of Initiation Deadline,” dated March 12, 2020.

³ See Petitioner’s Letter, “Refillable Stainless Steel Kegs from the Federal Republic of Germany: Response to Extension of Initiation Deadline,” dated March 19, 2020.

“Unassembled” or “unfinished” refillable stainless steel kegs include drawn stainless steel cylinders that have been welded to form the body of the keg and attached to an upper (top) chime and/or lower (bottom) chime. Unassembled refillable stainless steel kegs may or may not be welded to a neck, may or may not have a valve assembly attached, and may be otherwise complete except for testing, certification, and/or marking.

Subject merchandise also includes refillable stainless steel kegs that have been further processed in a third country, including but not limited to, attachment of necks, collars, spears or valves, heat treatment, pickling, passivation, painting, testing, certification or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the in-scope refillable stainless steel keg.

Specifically excluded are the following: (1) vessels or containers that are not approximately cylindrical in nature (*e.g.*, box, “hopper” or “cone” shaped vessels); (2) stainless steel kegs, vessels, or containers that have either a “ball lock” valve system or a “pin lock” valve system (commonly known as “Cornelius,” “corny” or “ball lock” kegs); (3) necks, spears, couplers or taps, collars, and valves that are not imported with the subject merchandise; and (4) stainless steel kegs that are filled with beer, wine, or other liquid and that are designated by the Commissioner of Customs as Instruments of International Traffic within the meaning of section 332(a) of the Act.

The merchandise covered by the order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7310.10.0010, 7310.10.0050, 7310.29.0025, and 7310.29.0050.

These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of the order is dispositive.

Initiation of Changed Circumstances Review

Section 751(d)(1) of the Act and 19 CFR 351.222(g)(1)(i) provide that Commerce may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have no further interest in the order, in whole or in part.⁴ Further, 19 CFR 351.222(g)(2) provides that Commerce will conduct a CCR under 19 CFR 351.216, and may revoke an order, in whole or in part, if it determines that revocation is warranted.

Under 19 CFR 351.216(c), Commerce will not review a final determination of an investigation less than 24 months after the date of publication of notice of the final determination unless it finds that good cause exists. However, 19 CFR 351.216(d) provides that if Commerce determines that good cause exists and the changed circumstances are sufficient to warrant a review exist, it will conduct a CCR, in accordance with 19 CFR 351.221.

Based on record information, Commerce has determined that, pursuant to 19 CFR 351.216(c), good cause exists to conduct a CCR. The petitioner, the sole American manufacturer of kegs, announced on January 15, 2020 that the German producer and sole respondent in the underlying investigation, Blefa Kegs, Inc. (Blefa), acquired a major stake in the American Keg Company. As part of this investment, Blefa committed substantial resources to expanding the petitioner's domestic operations by tripling production within three years, which will allow the petitioner to at least double its domestic employment during that time. As a result of this change in ownership, because the petitioner is the only American manufacturer of the domestic merchandise at issue, the total amount of American production will increase and the commercial situation of the American Keg Company will improve. We therefore find that the petitioner's

⁴ See section 782(h) of the Act.

affirmative statement of no interest in the *AD Order*, coupled with the circumstances described above, constitute good cause for the conduct of this review.⁵

Both the Act and Commerce’s regulations require that “substantially all” domestic producers express a lack of interest in the *AD Order* for Commerce to revoke the *AD Order*.⁶ Commerce has interpreted “substantially all” to represent producers accounting for at least 85 percent of U.S. production of the domestic like product.⁷ The petitioner’s request indicated that it is the sole producer of the domestic like product and, therefore, accounts for at least 85 percent of domestic production.

In accordance with section 751(b)(1) of the Act, 19 CFR 351.216, 19 CFR 351.221, and 351.222(g), we are initiating this CCR.

Preliminary Results of Changed Circumstances Review

If we conclude that expedited action is warranted, we may concurrently publish the notices of initiation and preliminary results of a CCR.⁸ Commerce has combined the notice of initiation and preliminary results in CCRs when sufficient documentation has been provided supporting the request to make a preliminary determination.⁹

⁵ See 19 CFR 351.216(d); see also *Carbon and Certain Alloy Steel Wire Rod From Canada: Initiation of Countervailing Duty Changed Circumstances Review*, 68 FR 62282, 62283-84 (November 3, 2003) (that “no further interest ... in continuing the order ... serves as good cause” sufficient to review a determination made less than 24 months after the date of publication an order).

⁶ See section 782(h) of the Act; 19 CFR 351.222(g).

⁷ See, e.g., *Certain Cased Pencils from the People’s Republic of China: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review, and Intent to Revoke Order in Part*, 77 FR 42276 (July 18, 2012), unchanged in *Certain Cased Pencils from the People’s Republic of China: Final Results of Antidumping Duty Changed Circumstances Review, and Determination To Revoke Order, in Part*, 77 FR 53176 (August 31, 2012).

⁸ See 19 CFR 351.221(c)(3)(ii).

⁹ See, e.g., *Multilayered Wood Flooring from the People’s Republic of China: Initiation and Preliminary Results of Antidumping and Countervailing Duty Changed Circumstances Reviews*, 82 FR 9561 (February 7, 2017), unchanged in *Multilayered Wood Flooring from the People’s Republic of China: Final Results of Changed Circumstances Reviews*, 82 FR 14691 (March 22, 2017).

In this instance, we have determined that there is significant information on the record to support a finding of changed circumstances. Indeed, the petitioner has provided us, we believe, with sufficient information to have a clear understanding of the change in the commercial situation of the American Keg Company, as well as its revised relationship with imports of subject merchandise from Germany (and Blefa, in particular). Accordingly, we find that expedited action is warranted and we are combining the notice of initiation and the notice of preliminary results, in accordance with 19 CFR 351.221(c)(3)(ii).

In accordance with 19 CFR 351.222(g), Commerce preliminarily determines that there is a reasonable basis to believe that changed circumstances exist sufficient to warrant revocation of the *AD Order*. Therefore, Commerce is notifying the public of its preliminary intent to revoke the *AD Order* in whole.

If we make a final determination to revoke, we will instruct U.S. Customs and Border Protection (CBP) to discontinue the suspension of liquidation and the collection of cash deposits of estimated AD duties, to liquidate all unliquidated entries that were entered on or after December 13, 2019, without regard to AD duties, and to refund all AD cash deposits on all such merchandise, with applicable interest. Because the International Trade Commission (ITC) found material retardation of the establishment of an industry in the United States, as opposed to finding material injury, Commerce instructed CBP in accordance with section 736(b)(2) of the Act to terminate any retroactive suspension of liquidation and refund any cash deposits required to secure the payment of AD duties with respect to entries of kegs entered, or withdrawn from warehouse, for consumption before the date of publication of the ITC's final affirmative determination, *i.e.*, December 13, 2019. We therefore intend to revoke the *AD Order* retroactively as of that date, should we determine in the final CCR that revocation is warranted.

Public Comment

Any interested party may request a hearing within 14 days of publication of this notice, in accordance with 19 CFR 351.310(c). Interested parties may submit case briefs not later than 14 days after the date of publication of this notice.¹⁰ Rebuttal comments, limited to issues raised in the case briefs, may be filed by no later than three days after the deadline for filing case briefs.¹¹ Any hearing, if requested, will normally be held two days after rebuttal briefs/comments are due, in accordance with 19 CFR 351.310(d)(1). Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.¹² Parties who submit case or rebuttal briefs in this CCR are requested to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹³ Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until May 19, 2020, unless extended.¹⁴

Unless extended, consistent with 19 CFR 351.216(e), we intend to issue the final results of this CCR no later than 270 days after the date on which this review was initiated, or within 45 days of publication of these preliminary results if all parties agree to our preliminary findings.

¹⁰ See 19 CFR 321.309(c)(1)(ii).

¹¹ See 19 CFR 351.309(d)(1).

¹² See 19 CFR 351.310(c).

¹³ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁴ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020).

Notification to Interested Parties

We are issuing and publishing this initiation and preliminary results notice in accordance with sections 751(b) and 777(i) of the Act, and 19 CFR 351.216, 351.221(b)(1), (b)(4), and (c)(3), and 351.222(f)(2)(iv).

Dated: April 28, 2020.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

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